

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANN BRITT JOHANSSON	:	
	:	
Plaintiff,	:	CIVIL ACTION
v.	:	
	:	NO. 02-CV-4864
CITY OF PHILADELPHIA, ET AL.	:	
	:	
Defendants.	:	

ORDER

AND NOW, this ____ day of _____, 2003, upon review of the Police Advisory Commission's Motion for an Extension of Time to Respond to Plaintiff's Motion to Compel Responses to Subpoena and Request for Telephone Conference With Court, it is hereby ORDERED that the motion is GRANTED. The Commission has an extension of time, until and including June 9, 2003, within which to respond to Plaintiff's Motion to Compel Responses to Subpoena Directed to the Records Custodian for the City of Philadelphia Police Advisory Commission.

IT IS SO ORDERED:

J.

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANN BRITT JOHANSSON

Plaintiff,

v.

CITY OF PHILADELPHIA, ET AL.

Defendants.

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:
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CIVIL ACTION

NO. 02-CV-4864

ORDER

AND NOW, this ____ day of _____, 2003, upon review of the Police Advisory Commission's Motion for an Extension of Time to Respond to Plaintiff's Motion to Compel Responses to Subpoena and Request for Telephone Conference With Court, it is hereby ORDERED that a telephone conference is scheduled for _____, 2003 at _____.

IT IS SO ORDERED:

J.

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANN BRITT JOHANSSON	:	
	:	
Plaintiff,	:	CIVIL ACTION
v.	:	
	:	NO. 02-CV-4864
CITY OF PHILADELPHIA, ET AL.	:	
	:	
Defendants.	:	

**POLICE ADVISORY COMMISSION'S
MOTION FOR EXTENSION OF TIME TO RESPOND TO MOTION
TO COMPEL RESPONSES TO SUBPOENA
AND REQUEST FOR TELEPHONE CONFERENCE WITH COURT**

The Police Advisory Commission (the "Commission") hereby respectfully moves this Court to have an extension of time, until and including June 9, 2003, within which to respond to Plaintiff's Motion to Compel Responses to Subpoena Directed to the Records Custodian for the City of Philadelphia Police Advisory Commission ("Motion to Compel"). The Commission also seeks to have a telephone conference with the Court. The Commission states as follows:

1. The Commission is a small agency with a very limited budget and resources.
2. On April 29, 2003, the Commission received a subpoena from Plaintiff's counsel requesting information regarding Plaintiff Ann Britt Johansson.
3. On May 5, 2003, by letter to Plaintiff's counsel and pursuant to Rules 26 and 45 of the Federal Rules of Civil Procedure, co-counsel for the Commission responded to the subpoena by objecting to portions of the subpoena and informing Plaintiff's counsel that she would be sent documents in response to the subpoena.
4. On May 22, 2003, Plaintiff's counsel filed the instant Motion to Compel without the necessary certificate pursuant to Local Rule 26.1(f).

5. On May 23, 2003, counsel for the Commission left a message for Plaintiff's counsel regarding the instant motion.

6. On May 27, 2003, after the long holiday weekend, Plaintiff's counsel called counsel for the Commission back and left a message that she was not interested in speaking with Commission counsel.

7. Despite this message, counsel for the Commission called Plaintiff's counsel in attempt to resolve the subpoena issues.

8. Plaintiff's counsel abruptly ended the conversation after less than (3) minutes.

9. The Commission has asserted various privileges and objections to Plaintiff's requests and believes that the majority of the documents requested are available from other sources.

10. The Commission is willing to assist Plaintiff in obtaining these documents from other sources.

11. The Commission requests additional time to respond to the motion to attempt to resolve these issues amicably.

12. The Commission believes that the documents Plaintiff's requested are available from the Philadelphia Police Department and is willing to assist Plaintiff in obtaining these documents.

13. The Commission requests that the Court hold a telephone conference to resolve these issues so that the Commission does not have to expend its limited resources responding to this motion.

14. In the event these issues cannot be resolved amicably, the Commission also requests additional time to respond to the motion because it has asserted, among other objections,

the deliberative process privilege. Thus, under the privilege, the head of an agency must formally object to the discovery requested. Although the Executive Director of the Commission formally objected by letter to an informal request by Plaintiff's counsel almost a year ago, the Executive Director will provide to this Court an affidavit identifying the documents and why the privilege applies to each document. See Redland Soccer Club, Inc. v. Department of the Army, 55 F.3d 827 (3d Cir. 1995); United States v. O'Neill, 619 F.3d 222, 225 (3d Cir. 1995).

WHEREFORE, the Commission requests an extension of time, until and including June 9, 2003, within which to respond to Plaintiff's Motion to Compel Responses to Subpoena Directed to the Records Custodian for the City of Philadelphia Police Advisory Commission. The Commission also requests a telephone conference regarding this matter at time set by this Court.

Respectfully submitted,

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& Rhoads, LLP
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Attorneys for the Police Advisory
Commission

CERTIFICATE OF SERVICE

I, Michael J. Butler, hereby certify that on this _____ day of May, 2003, I caused a true and correct copy of Police Advisory Commission's Motion for an Extension of Time to Respond to Plaintiff's Motion to Compel Responses to Subpoena and Request for Telephone Conference With Court to be served via United States First Class Mail, postage prepaid, upon the following interested party at the address listed below:

Nancy D. Wasser, Esquire
Law Offices of Nancy D. Wasser
1617 JFK Boulevard, Suite 1130
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Edward D. Chew, Jr., Esquire
City of Philadelphia
Law Department
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Michael J. Butler